O/Contempt of Court/53

1953

File No. 53/53

K

P 5E

Legal Dpt

g **BRANCH**

Subject:—

Opinions on the Contempt of Court.

File No. 53/53

Fin 53a

Gen. 194 e.

C O N T E N T S

Legal Department File No. C. Contempt of Courts/53
(D- 3)

Cr. No.	C. / C. No.	Subject	Pages.
		Rules under the Contempt of Courts Act.	
1.	C-136/R--53	Notice to show cause why the loss under the land, pending the [illegible] certain persons would amount to contempt of court.	1-6

Mir/16/E/
5 Co.

Submitted.

2. Please see the office note of the C.S.D. on pages 57-58 ante.

3. The facts of this case, in short are as follows:-

On receiving information from the supply Head Karkun, Belgaum that 23 bags of paddy were misappropriated in the Central Godown, Belgaum, the District Supply Officer, Belgaum District proceeded to the Godown on 15-9-50 and found onverification that 23 bags of paddy husk had been kept in place of the bags of paddy in the centre of the stocks. He entrusted the case to the police. As per the report of the police, the services of the Godown Manager Shri N. B. Sankolli and the Hamal, Shri Shinde were terminated and the clerks Shri A.S. Pujar and Shri L.K.Shinde were suspended with effect from 10-10-50 Thereafter on the strength of evidence collected by the police, a prosecution was launched against M/s. Pujar and Shinde in the court of the Resident Magistrate, First Class, Belgaum for misappropriation of the 23 bags of paddy. The Godown Manager, Shri Sankolli was a retired Dy. Collector. A notice asking him to show cause why the loss of 23 bags should not be recovered from him, was issued to him. He submitted his explanation to the show cause notice. As therewas no evidence to show that he had a hand in the misappropriation of 23 bags and as he had not furnished any security, the question of making any recovery from him was dropped. The clerks M/s. A.S. Pujar and L.K.Shinde had furnished security of Rs. 500/- each. Shri A.S. Pujar was in charge of the paddy section at the time when the misappropriation took place and there was evidence to show that Shri L.K.SHINDE had actively participated in bringing the paddy husk from the rice mills godown. Show cause notices were therefore issued to both of them

to explain why the cost of the 23 bags should not be recovered from them. They submitted their explanations which were not considered by the Collector of Belgaum to be satisfactory. Therefore it was ordered by the Collector on 27-10-52 that recovery of the cost of 23 bags amounting to Rs. 504-1-4 should be effected from them or from their sureties under the security bonds executed by them. M/s Pujar and Shinde appealed to the Collector against his order of recovery. Their appeal was, however, rejected by the Collector. They have now made an appeal to the D.C.S., Bombay wherein they have stated that as the questions (1) whether loss was actually caused and (2) whether they were responsible for the loss, subjudice the order of recovery of the amount of that loss from them amounts to contempt of court and that the Collector should therefore be asked to withhold the recovery till the criminal case against them is decided. The C.S.D. proposes to reject the appeal of M/s. Pujar and Shinde as according to them the recovery of loss under a security bond is being effected from a person in whose charge the property which is lost was placed and not as a measure of punishment under the conduct Rules and therefore there is no question of contempt of court if the loss is recovered pending the Criminal Case against them on the charge of Criminal misappropriation. However, R.L.A. is requested to advise Section 403, I.P.C. provides that whoever dishonestly misappropriates or converts to his own use any moveable property shall be punished with imprisonment of either description for a term which may extend to 2 years or with fine or with both. It appears that the two clerks Shriots, Pujar and Shinde are being prosecuted for criminal misappropriation of 23 bags under this section. Presumably both of them have executed the security bond in form 1-B given in the Financial Publication No. 1. If so, under the bonds they have bound themselves in the amount of Rs. 500/- for the purpose of indemnifying the Governor against all loss, injury, cost or expenses which the Governor may in any way, suffer sustain or pay by reason of their misconduct, neglect oversight or any other act. The security bonds provide for recovery of the amounts as arrears

of land revenue. Therefore as per the provisions of section 187, of the Bombay Land Revenue Code, the cose of 23 bags can be recovered as arrears of land revenue from M/s. Pujar and Shinde of on an inquiry, it is found that the loss occured due to their misconduct, neglect oversight or any other act. It is true that the criminal proceedings against them for misappropriation are relating to the same 23 bags. But as the amount of loss is being recovered under the bonds for their misconduct, neglect etc. and not for criminal misappropriation it would be legal for Government to effect the recovery under the bonds pending the criminal proceeding and such an action would not amount to the contempt of court.

Sd/

VGP. 14-8-56.

As Shri Pujar and Shri Shinde are being prosecuted for misappropriation, enforcement of the bonds executed by them and their sureties may await the result, of the prosecution.

Sd/P.M.LAD.
1/4

Remembrancer of Legal Affairs.

U.R. to C.S.D. No. G- 196, dated the 2nd April 1953.

VGP. 14-8-56.